

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
CRIMINAL REVISION APPLICATION No. 482 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil judge
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SMT. MADHULIKA MANOJ AGRAWAL - Applicant(s)

Versus

SHEWETA RAMESHCHANDRA GUPTA & 1 - Respondent(s)

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Appearance :

MR HARESH J TRIVEDI for Applicant(s) : 1,

MR RR GUPTA for Respondent(s) : 1,

MR.H.L. JANI, ADDL. PUBLIC PROSECUTOR for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 08/01/2007

ORAL JUDGMENT

The applicant-original accused in Criminal
Case No.2015 of 2000 being aggrieved by the judgement
and order dated 27th March 2006 passed by the learned

Additional Civil Judge & Judicial Magistrate, First Class, Navrangpura, Ahmedabad (Rural), which was confirmed in Criminal Appeal No.4 of 2006 by the learned Presiding Officer, Fast Track Court No.6, Ahmedabad (Rural) by his judgement and order dated 11th July 2006 is before this Court.

The present Criminal Revision Application was filed on 17th July 2006. Initially, order was passed on 24th July 2006. Learned counsel for the applicant had submitted that the applicant will deposit a sum of Rs.50,000/- on or before 25th July 2006 before this Court; thereafter, Rs.50,000/- will be deposited on or before 15.08.2006. Next an amount of Rs.50,000/- will be deposited on or before 15.09.2006 and finally an amount of Rs.50,000/- will be deposited on or before 15.10.2006.

Learned advocate for the applicant, Mr.Trivedi submitted that all aforesaid amount, totalling to Rs.2 lakhs, is deposited.

2. In the present case, the applicant-accused was convicted for an offence under sec.138 of the Negotiable Instruments Act and awarded 1 year simple

imprisonment, fine of Rs.5000/-; in default 1 month simple imprisonment. The order was upheld by the learned Additional Sessions Judge by judgement and order dated 11.07.2006.

Mr.Trivedi states that fine amount of Rs.5000/- is already paid on 27th March 2006.

3. Mr.Gupta, learned advocate appearing for respondent no.1 herein submitted that the amount was given to the present applicant prior to year 2000 for a while as the same was required for the business. But then the same was not returned. It was only when respondent no.1 insisted for repayment of the same, a cheque bearing No.025509 dated 19.05.2000 of Rs.2 lakhs, drawn on Nutan Nagarik Sahkari Bank Ltd., Jodhpur, Satellite Branch was given. The same was dishonoured, which gave rise to Criminal Case No.2015 of 2000. He submitted that neither the learned JMFC nor the learned lower appellate Judge has considered the question of granting any compensation to respondent no.1. He submitted that he is aware of the fact that this Criminal Revision Application is filed by the original accused and therefore, he cannot insist for

passing any order with regard to compensation. He submitted that however, if it is deemed fit the Court may pass an order awarding some compensation, as the complainant has suffered loss of interest.

4. The fact that the amount was advanced on account of friendly relations between the complainant and the accused and that the prayer for compensation was not pressed either before the learned JMFC or before the learned lower appellate Judge, there is no reason for considering the question of compensation now.

5. In view of the fact that the amount of Rs.2 lakhs is deposited before this Court, the matter requires to be disposed of. The Registry is directed to pay that amount of Rs.2 lakhs to respondent no.1 herein by an account payee cheque, after respondent no.1 is identified by the learned advocate appearing for respondent no.1, within two weeks from the date of receipt of this order.

6. The present Criminal Revision Application is allowed. The conviction and the sentence awarded to the present applicant is quashed and set aside. Rule is made absolute.

(RAVI R. TRIPATHI, J.)

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